

In the Matter of Merchant Mariner's Document No. Z-511902-D1
Issued to: JOSEPH N. RANDOLPH

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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JOSEPH N. RANDOLPH

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 1 July, 1952, an Examiner of the United States Coast Guard at Seattle, Washington, revoked Merchant Mariner's Document No. Z-511902-D1 issued to Joseph N. Randolph upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as messman on board the American SS CHENA under authority of the document above described, on or about 22 March, 1952, he wrongfully had in his possession narcotics; to wit, marijuana cigarettes.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by an attorney of his own selection and he entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and counsel for Appellant made their opening statements. Counsel stated that the offense took place off the ship and, therefore, Appellant is not guilty as charged even though he has used narcotics since he was twelve years old.

The Investigating Officer introduced in evidence the testimony of two witnesses and a certified copy of Appellant's conviction in the Superior Court of the State of Washington for illegal possession of marijuana on or about 22 March, 1952.

In defense, Appellant testified under oath in his own behalf. He stated that he had been drinking heavily but remembered buying the marijuana cigarettes and smoking some of them before he was picked up by the police.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-511902-D1 and all other licenses, certificates of service and

documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that Appellant should be granted clemency because he served ninety days in the King County jail for this offense and he is the sole support of his family. A probationary order is requested since Appellant has had no prior trouble with the Coast Guard.

APPEARANCES: J. A. Kavaney, Esquire, of Seattle, Washington, of Counsel.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 22 March, 1952, Appellant was acting as messman in the service of the American SS CHENA and acting under authority of his Merchant Mariner's Document No. 511902-D1 while the ship was at Seattle, Washington.

While Appellant was ashore on this date, he was apprehended by two members of the local police force with two marijuana cigarettes in his possession. Appellant admitted ownership of the marijuana cigarettes and that he had used marijuana for a long period of time.

Subsequently, Appellant was convicted in the Superior Court of the State of Washington for King County on a plea of guilty to the charge of illegal possession of narcotics in the form of marijuana on or about 22 March, 1952. Appellant was sentenced to serve ninety days in the King County jail for this offense.

OPINION

In view of Appellant's involvement with narcotics while signed on the Shipping Articles of an American merchant vessel, the order of revocation will be sustained. The order of revocation has been the consistent policy taken by the Coast Guard against the documents of a seaman who has been found guilty of a narcotics offense while acting under the authority of his seaman's document.

Since this is a remedial action to protect lives and property at sea by removing narcotics offenders and other dangerous seamen from the ships, the same purpose is not served by the fact that the offender may have received a prison sentence as punishment for his offense.

ORDER

The order of the Examiner dated at Seattle, Washington, on 1 July, 1952, is AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 29th day of April, 1953.